

UNDER SEAL

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DISTRICT OF NEVADA	
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7 **UNITED STATES DISTRICT COURT**
 8 **DISTRICT OF NEVADA**

9 **COMMODITY FUTURES TRADING**
 COMMISSION,

Case No. 2:19-cv-1697-JAD-DJA

10 Plaintiff,
 11 v.
 12 DAVID GILBERT SAFFRON
 a/k/a DAVID GILBERT and
 CIRCLE SOCIETY, CORP.,
 14 Defendant.

**PLAINTIFF'S MOTION TO EXTEND
 TEMPORARY RESTRAINING ORDER
 AND CONTINUE THE HEARING ON
 PLAINTIFF'S MOTION FOR A
 PRELIMINARY INJUNCTION**

15 Plaintiff Commodity Futures Trading Commission ("Commission" or "CFTC") hereby
 16 requests that this Court extend the *Ex Parte* Temporary Restraining Order ("TRO") entered on
 17 October 3, 2019, against David Gilbert Saffron a/k/a David Gilbert ("Saffron") and his business
 18 entity, Circle Society, Corp. ("Circle Society") (collectively, "Defendants") for an additional
 19 period of two weeks from the scheduled October 15, 2019 hearing on Plaintiff's Motion for a
 20 Preliminary Injunction ("PI Motion," ECF No. 6), until on or about October 29, 2019. The
 21 CFTC also requests a two-week continuance of the hearing on its pending PI Motion, until on or
 22 about October 29, 2019.¹ In support of this motion, Plaintiff states as follows:
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 26 ¹ The CFTC is available for a hearing on the pending PI Motion on October 29, 2019, if this
 27 date is convenient for the Court.

1 1. On September 30, 2019, Plaintiff filed a Complaint against Defendants, seeking
2 injunctive and other equitable relief for anti-fraud and other violations of the Commodity
3 Exchange Act (the “Act”) and Commission Regulations promulgated thereunder. ECF No. 1.

4 2. On October 3, 2019, the Court entered an *Ex Parte* TRO against Defendants (set
5 to expire on October 15, 2019, at 6:00 p.m.). The Court also scheduled a hearing on the CFTC’s
6 PI Motion for Tuesday, October 15, 2019 at 1:30 p.m. Order dated October 3, 2019 (“October 3,
7 2019 Order” or “Order”), ECF No. 9.

8 3. The CFTC served Defendant Circle Society by delivering a copy of the
9 Summons, Complaint, *Ex Parte* TRO, PI Motion, all other initial filings, and the Order (ECF
10 Nos. 1-6), to Circle Society’s Registered Agent Preston Sterling Kerr via electronic mail on
11 October 7, 2019 and United Parcel Service overnight on October 8, 2019. *See* Affidavit of
12 Service and supporting exhibits, ECF No. 10.

14 4. After the Court issued the sealed October 3, 2019 Order, the CFTC immediately
15 retained three process servers in California, Florida, and Nevada to effect service upon Saffron.
16 Despite the CFTC’s best efforts to effectuate service of process on Saffron, it has been unable to
17 serve him by delivering a copy of the Summons, Complaint, *Ex Parte* TRO, PI Motion, all other
18 initial filings, and the Order, to Saffron personally through a private process server. Three
19 different private process servers have made numerous attempts of service at six separate
20 residences as of the date of this filing, including Saffron’s last-known addresses in California and
21 Nevada, but have been unsuccessful. *See* Declaration of George H. Malas in Support of
22 Plaintiff’s Motion to Extend TRO and Continue the Hearing on Plaintiff’s Motion for a
23 Preliminary Injunction at ¶¶ 7-8 (“Malas Decl. II,” attached as Exhibit 1). As such, Saffron has
24 not yet been formally served with the court documents in this case and does not have formal
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1 notice of the scheduled October 15, 2019 hearing on Plaintiff's PI Motion.

2 5. After the Court issued the sealed October 3, 2019 Order, the CFTC also served
 3 numerous individuals and entities who may hold assets and documents related to Defendants'
 4 business activities or personal finances with a copy of the Order via electronic mail in order to
 5 provide notice of the TRO's asset freeze and prohibition on the destruction of documents. *See*
 6 Malas Decl. II, ¶ 6.

7 6. As of the date of this motion, Defendants continue soliciting active and
 8 prospective pool participants and offering new investment plans. *See* Malas Decl., ECF No. 5-1,
 9 6-1 at 38. Since the filing of the Complaint and other motions on September 30, 2019, the CFTC
 10 has been contacted by at least twenty-nine additional individuals regarding this matter.²

12 7. Therefore, the CFTC requests that this Court extend and continue the *Ex Parte*
 13 TRO for an additional period of two weeks from the scheduled October 15, 2019 hearing on
 14 Plaintiff's PI Motion, until on or about October 29, 2019. Additionally, the CFTC requests a
 15 two-week continuance of the hearing on Plaintiff's PI Motion, until on or about October 29,
 16 2019.

18 8. The CFTC will continue its efforts to serve Saffron with all court documents. If
 19 Saffron is served, the CFTC will file proof of service immediately thereafter. However, if the
 20 CFTC is unable to serve Saffron, the CFTC intends to move the Court for an order allowing for
 21 service to be effected through an alternative method such as service by publication pursuant to
 22 Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4.4(b), (c).

26 2 As of the date of this filing, the CFTC is aware of approximately seventy-four individuals
 27 who have invested funds with Defendants.

1 **WHEREFORE**, the CFTC respectfully requests that the Court extend and continue the
2 *Ex Parte* TRO entered on October 3, 2019 to on or about October 29, 2019, and continue the
3 hearing on the CFTC's pending PI motion for two weeks, until on or about October 29, 2019.

4 Dated: October 11, 2019

5 Respectfully submitted,

6 By: 

Danielle E. Karst
Timothy J. Mulreany
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COMMISSION**
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Exhibit 1

Declaration of George H. Malas in Support of
Plaintiff's Motion to Extend Temporary Restraining
Order and Continue the Hearing on Plaintiff's
Motion for a Preliminary Injunction

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9 **COMMISSION,**

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13 a/k/a DAVID GILBERT and
14 CIRCLE SOCIETY, CORP.,

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Case No. 2:19-cv-1697-JAD-DJA

**DECLARATION OF GEORGE H. MALAS
IN SUPPORT OF PLAINTIFF'S MOTION
TO EXTEND TEMPORARY
RESTRAINING ORDER AND CONTINUE
THE HEARING ON PLAINTIFF'S
MOTION FOR A PRELIMINARY
INJUNCTION**

I, George H. Malas, hereby declare as follows:

1. I have personal knowledge of the following facts and, if called as a witness, could and would testify competently thereto.

2. I have worked as a Futures Trading Investigator for Plaintiff Commodity Futures Trading Commission (“Plaintiff” or “CFTC”) since September 2009. Prior to joining the Commission, I held positions as a Compliance Officer and Branch Administrative Manager at Deutsche Bank Securities Inc. and as a Compliance Examiner, Investigator and Regulatory Analyst at the National Association of Securities Dealers (now known as “FINRA”). I have a Bachelor of Science in Business Administration, with a Concentration in Finance, from Towson State University and a Master of Business Administration from Johns Hopkins University.

1 3. I am the Futures Trading Investigator assigned to assist in the investigation of David
2 Gilbert Saffron (“Saffron”) and Circle Society, Corp. (“Circle Society”) (collectively,
3 “Defendants”).

4 4. Defendant Saffron is a citizen of Australia and his last known residence is 3765 Pacific
5 Street, Las Vegas, Nevada 89121; however, it appears as though Saffron is currently commuting
6 between rental residences and/or hotels in Las Vegas, Nevada and Los Angeles, California.
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8 5. Defendant Circle Society is a Nevada corporation, and the Nevada Secretary of State’s
9 Articles of Incorporation for Circle Society list Saffron as the only officer of the company.
10

11 6. The CFTC sought and obtained a Temporary Restraining Order on October 3, 2019
12 (“Order”), which contains an asset freeze and prohibition on the destruction of documents.
13 Accordingly, I served numerous individuals and entities that may hold assets and documents
14 related to Defendants’ business activities or personal finances with a copy of the Order via
15 electronic mail on October 4, 2019.

16 7. Lastly, the CFTC has attempted and continues to attempt service on Saffron with the
17 following documents: (1) Complaint (ECF No. 1); (2) Civil Cover Sheet; (3) Signed Summons
18 (ECF No. 4); (4) Motion to Permit Appearance of Government Attorneys (ECF No. 3); (5)
19 Motion and Memorandum to Seal and Proposed Order (ECF No. 2); (6) Motion and
20 Memorandum for *Ex Parte* Statutory Restraining Order and Proposed Order (ECF No. 5); (7)
21 Declaration of CFTC Futures Trading Investigator George Malas with Exhibits (ECF Nos. 5-1,
22 6-1); (8) Motion and Memorandum for Preliminary Injunction and Proposed Order (ECF No. 6);
23 and (9) Sealed Court Order re Motions for Pretrial Equitable Relief and Related Matters (ECF
24 No. 9).

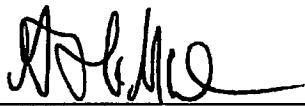
25 8. The CFTC has made numerous attempts to serve Saffron via three different private
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1 process service companies located in California, Florida, and Nevada, and at six separate
2 residences as of the date of this Declaration, including Saffron's last-known addresses in
3 California and Nevada; however, service has yet to be effected.¹

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5 I declare under penalty of perjury that the foregoing is true and correct.

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9 George H. Malas

10 Futures Trading Investigator

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12 Executed in Washington, D.C. on October 10, 2019.

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27 ¹ Additional documentation detailing service attempts can be made available to the court upon request.

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10 Plaintiff,

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12 DAVID GILBERT SAFFRON
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14 CIRCLE SOCIETY, CORP.,

Defendant.

15
[PROPOSED] ORDER EXTENDING TEMPORARY RESTRAINING ORDER AND
CONTINUING HEARING ON PLAINTIFF'S MOTION FOR A PRELIMINARY
INJUNCTION

18 Having reviewed Plaintiff Commodity Futures Commission's Motion to Extend
19 the *Ex Parte* Temporary Restraining Order ("TRO") entered on October 3, 2019 (ECF No. 9)
20 and Continue the Hearing on Plaintiff's Motion for a Preliminary Injunction scheduled for
21 October 15, 2019, and the Court being fully advised,

22 IT IS HEREBY ORDERED that Plaintiff's Motion is granted and that the *Ex Parte* TRO
23 entered on October 3, 2019, against Defendants David Gilbert Saffron and Circle Society, Corp.
24 is extended for an additional period of two weeks from the scheduled October 15, 2019 hearing
25 on Plaintiff's Motion for a Preliminary Injunction, until October 29, 2019.

1 IT IS FURTHER ORDERED that Plaintiff's Motion is granted and that the hearing on
2 Plaintiff's Motion for a Preliminary Injunction set for October 15, 2019 at 1:30 p.m. is continued
3 until October 29, 2019.

4 **IT SO ORDERED:**

5 _____
6 UNITED STATES DISTRICT JUDGE
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8 DATED: _____
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